IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1614 OF 2005

Phirai Surajbali Chauhan.... .... Petitioner.

Versus

The State of Maharashtra & Ors..... .... Respondents.

Mr. R. R. Arolkar for the Petitioner.
Mr. Pradeep Jadhav, Asstt. Government Pleader, for Respondent No.1.
Ms. Aruna Savla for Respondent No.2.

CORAM: DALVEER BHANDARI, C.J. &
DR. D. Y. CHANDRACHUD, J.

DATED : SEPTEMBER 16, 2005.

P.C. :

According to the averments in the petition, the petitioner had a hut admeasuring 13' x 11' at Anand Nagar Hutment Colony, Opp. Sahayog Nagar, Apna Ghar Road, Four Bungalow, Andheri (West), Mumbai – 400 058. In the year 1985, the entire area of Apna Ghar Road was covered with several number of huts.

Behind the petitioner's hut there was a nallah. The entire land of that hutment was owned by respondent No.1, the State of Maharashtra. There was no footpath or any pucca road in the year 1985 when the petitioner and other hutment dwellers were having their huts. The petitioner was residing with his family and was also carrying on business of selling chana / kurmura in the said hut.

2. In 1986-87, a big housing complex known as `Lokhandwala Housing Complex' came into existence and they started constructing multi-storied buildings near the said hutment colony. The case of the petitioner is that his hut was demolished in the road widening project of the respondents. The further case of the petitioner is that he is entitled to alternate accommodation according to the policy of the respondents because he has been there since 1985.

3. The learned Counsel appearing for the petitioner has drawn our attention to a receipt of Rs.1501/-, which the petitioner has paid to respondent No.1 on 25th August, 1992. According to the

petitioner this receipt itself is a sufficient proof of the fact that the petitioner was residing in that hut before 1st January, 1995. The petitioner has also placed some other documents, namely, pitch holder card, ration card, copy of extract of election roll, etc., on record. The main grievance of the petitioner is that these documents have not been considered by respondent No.2 in the order dated 24th February, 2002 passed by the Assistant Commissioner, K/West Ward, Municipal Corporation of Greater Mumbai. Even careful perusal of the order does not indicate that these documents and other documents which have been filed in this petition, have been considered by respondent No.2, the Municipal Corporation of Greater Mumbai. In this view of the matter, in the interest of justice, we deem it appropriate to set aside the impugned order and direct respondent No.2, the Municipal Corporation of Greater Mumbai to consider the documents filed by the petitioner regarding his entitlement for allotment of alternate accommodation. Since the matter has been pending for quite some time, we deem it appropriate to direct the

petitioner to file a comprehensive representation along with all the documents with respondent No.2 within two weeks from today and respondent No.2 shall after affording hearing to the petitioner scrutinise all those documents and give a reasoned order, as expeditiously as possible and in any event within six weeks after receipt of the representation and documents.

4. No further directions are necessary. This petition is, accordingly, disposed of.

Sd/-

CHIEF JUSTICE

Sd/-

DR. D. Y. CHANDRACHUD, J.